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The Federal Land Policy and Management Act  
(Summer Conference, June 6-8)

1984

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### AGENDA: The Federal Land Policy and Management Act

University of Colorado Boulder. Natural Resources Law Center

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#### Citation Information

University of Colorado Boulder. Natural Resources Law Center, "AGENDA: The Federal Land Policy and Management Act" (1984). *The Federal Land Policy and Management Act (Summer Conference, June 6-8)*. <https://scholar.law.colorado.edu/federal-land-policy-and-management-act/1>

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## Agenda

### June 6, 1984

- 8:00 a.m. Registration
- 8:40 a.m. **Introductory Remarks and Welcome**  
Dean Betsy Levin and Conference Chairmen  
James N. Corbridge, Jr., and Lawrence J. MacDonnell
- 8:45 a.m. **The Public Land Laws and Introduction to FLPMA** (A)  
**Charles F. Wilkinson**, Professor of Law, University of Oregon  
FLPMA cannot be appreciated without an understanding of the historical developments that led up to its passage. The speaker will discuss the history of public land law from the acquisition of the public domain to the present; the pressures that led to the enactment of FLPMA; the provisions of the Act; and the administration of the public lands.
- 10:45 a.m. Refreshment break
- 11:00 a.m. **The Bureau of Land Management Planning Process** (B)  
**H. Paul Friesema**, Professor of Political Science and Urban Affairs, and  
**Paul J. Culhane**, Research Political Scientist, Northwestern University  
FLPMA Section 202 mandates a comprehensive land management planning process. The complexities of this process will be described with special emphasis on the implications of comprehensive planning for group participation, the relationship between land planning and the NEPA process, and the effects of making major decisions within comprehensive plans.
- 12:15 p.m. **Luncheon Program: The Future of the Public Lands**  
**Robert F. Burford**, Director, Bureau of Land Management, Washington, D.C.
- 1:45 p.m. **FLPMA from the Perspective of the Bureau of Land Management** (C)  
**H. Robert Moore**, Associate Director, Colorado State Bureau of Land Management, Denver, Colorado  
FLPMA has been described as an organic act for the Bureau of Land Management. Although FLPMA actually codified many existing BLM practices, it also created a number of new requirements. The current status of required land management activities under FLPMA from the BLM perspective will be addressed.
- 2:45 p.m. **Opportunities for Local Input in BLM Planning and Management** (D)  
**Thomas Glass**, Colorado State Senator, Frisco, Colorado  
Local governments have a high stake in BLM decisions regarding the public lands. The effectiveness of the BLM under FLPMA in including appropriate levels of local input will be considered.
- 3:45 p.m. Refreshment break
- 4:00 p.m. **Land Sales and Exchanges** (E)  
**Jon K. Mulford**, Attorney, Denver and Aspen, Colorado  
The speaker will discuss current procedures by which land sales and exchanges are made under FLPMA, and will examine some of the problems encountered.
- 5:30 p.m. Reception at the University Memorial Center
- 6:30 p.m. Supper for all participants

### June 7, 1984

- 8:45 a.m. **Access To and Across Public Lands** (F)  
**Rebecca Love Kourlis**, Attorney, Gibson, Dunn & Crutcher, Denver, Colorado  
Access to and rights-of-way through the public lands continue to be a source of conflict and controversy. The current legal status of the access and right-of-way provisions of FLPMA in relation to development interests, recreation activities, and land management needs will be discussed.

10:15 a.m. Refreshment break

10:30 a.m. **Wilderness and the Public Lands**

**John D. Leshy**, Professor of Law, Arizona State University

One of the most controversial aspects of recent public land policy has been the study of BLM-managed areas for possible inclusion in the National Wilderness Preservation System. The status of wilderness review under section 603 of FLPMA, conflicts with other resource uses, interpretive problems, judicial review and legislative prospects will be addressed.

12 noon Lunch (local restaurants)

2:00 p.m. **FLPMA as It Affects the Mining Industry**

**William R. Marsh**, Attorney, Sherman & Howard, Denver, Colorado

During 1982 and 1983, two United States District Courts declared that the unpatented mining claim registration and recordation provisions of 43 U.S.C. §1744 violate the due process clause of the Fifth Amendment. Many members of the mining industry feel that these and other related developments not only justify but require a comprehensive review of the purposes, administration, and effects of FLPMA.

3:30 p.m. Refreshment break

3:45 p.m. **FLPMA and Grazing**

**George C. Coggins**, Professor of Law, University of Kansas

Grazing activities in the West are carried out in large part on the public lands. FLPMA has changed the historical relationship between grazing interests and the government. The potential impact of FLPMA on the grazing industry will be analyzed.

5:15 p.m. Reception on the lawn

**June 8, 1984**

9:00 a.m. **Private Uses of the Public Lands—What is the Appropriate "Fair Market Value"?**

**Richard L. Stroup**, Professor of Economics, Montana State University, and Director, Office of Policy Analysis, Department of the Interior

FLPMA anticipates that when public lands are put to private uses, the government should receive in return the fair market value of these opportunities. An economist and Interior Department analyst will discuss the major issues surrounding the fair market value concept.

10:00 a.m. Refreshment break

10:15 a.m. **Land Withdrawals**

**David H. Getches**, Executive Director, Colorado Department of Natural Resources

The withdrawal of public lands from entry under the public land laws has been a matter of continuing controversy. The FLPMA provisions with respect to withdrawals, progress in reviewing withdrawals and reopening lands no longer required to be withdrawn, and current issues including validity of legislative veto provisions will be addressed.

11:45 a.m. **Luncheon Program: Congressional Oversight of the Public Lands**  
**Congressman Raymond P. Kogovsek**, U.S. House of Representatives

1:45 p.m. **Directions for the Future**

**Speaker: Clyde O. Martz**, Attorney, Davis, Graham & Stubbs, Denver, Colorado

**Respondent: John A. Carver**, Professor of Law, University of Denver Law School

**Panel composed of former speakers**

The speaker will synthesize materials and points of view previously presented, and suggest where FLPMA and possible amendments may take the public lands in the future. A discussion will follow with the respondent, panelists, and attendees at the conference.

4:15 p.m. Adjourn

## NATURAL RESOURCES LAW SHORT COURSES

### CONFERENCE ORGANIZERS



JAMES N. CORBRIDGE (A.B. English, Brown University '55, LL.B. Yale Law School, '63) is Professor of Law at the University of Colorado School of Law. He was Interim Vice Chancellor for Academic Services at the University of Colorado, '79-'81, and Visiting Fellow at the Institute for Advanced Legal Studies at the University of London, '78-'79. His publications include "Legal Structures for International Control of Weather Modification Techniques," International Conference on Water for Peace (with Moses), "Weather Modification--Law and Administration" (with Moses). He is a past member of the U.S. Delegation to the

International Conference on Water for Peace and BUILD Conference on Water Resources Engineering.

LAWRENCE J. MacDONNELL (B.A. Political Science, University of Michigan, 1966; J.D. Natural Resources Law, University of Denver College of Law, 1972; and Ph.D. Mineral Economics, Colorado School of Mines, 1974) became Director of the Natural Resources Law Center in November 1983. Prior to that he was a research economist at the Denver Research Institute and Adjunct Professor at the Graduate School of Business and Public Management at the University of Denver, 1980-83. He has served as a consultant to the Colorado Office of Energy Conservation, as an instructor and course director for the Colorado Outward Bound School, as Assistant Professor in the Dept. of Mineral Economics at the Colorado School of Mines, and as a Special Consultant to the U.S. House Committee on Interior and Insular Affairs. He is a member of the Colorado Bar Association and the Association of Environmental and Resource Economists.



THE FEDERAL LAND POLICY  
AND MANAGEMENT ACT  
June 6-8, 1984

FACULTY



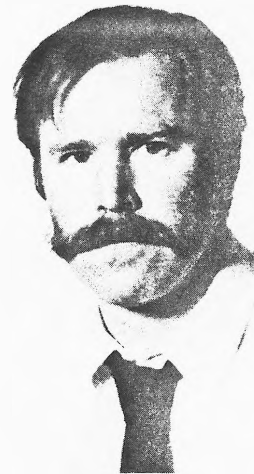
ROBERT F. BURFORD, Colorado rancher and state legislator, was appointed Director of the Bureau of Land Management by President Reagan in 1981. He was born in Grand Junction, Colorado, and has an Engineer of Mines degree from Colorado School of Mines (1944). After serving in the Marine Corps (1944-46), he worked as a mining engineer for Permanente (Kaiser) Aluminum Company in California and Jamaica (1948-49) before returning to Colorado to operate sheep and cattle ranches in Eagle and Mesa Counties until 1981. From 1974-80 he served three terms in the Colorado House of Representatives. He is a member of the Colorado Cattle-

men's Association, the National Cattlemen's Association, Colorado Farm Bureau, the Colorado Woolgrower's Association, and the Professional Engineers of Colorado. He is a member of the Board of Directors of Reed Miller, Inc., (Hertz Franchise) of Grand Junction, and Central Bancorporation, Inc. of Colorado.

JOHN A. CARVER, JR. is Professor of Law at the University of Denver. He has an A.B. from Brigham Young University, an LL.B. from Georgetown University Law School, and an honorary LL.D. from the College of Guam. He has served as Assistant Secretary of the Interior, Under Secretary of the Interior, and Commissioner on the Federal Power Commission. He has been counsel to the Denver law firm of Head, Moye, Carver and Ray. During 1983-84 he has been on sabbatical at the Department of Agricultural Economics of the University of Arizona in Tucson.

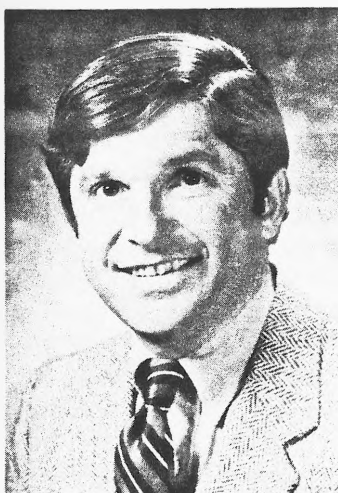


GEORGE C. COGGINS is Professor of Law at the University of Kansas Law School. His A.B. is from Central Michigan University (1963) and J.D. from the University of Michigan Law School (1966). His practice included the law firms of Pillsbury, Madison & Sutro and McCutchen, Doyle, Brown & Enersen, both in San Francisco, before coming to the University of Kansas in 1970. He has been visiting professor at the University of Notre Dame, Northwestern Law School, Lewis and Clark College, University of North Carolina Law School, and will be Natural Resources Law Distinguished Visiting Lecturer at the University of Denver Law School in January 1985. He has published numerous books and articles on public land and environmental issues.



H. PAUL FRIESEMA is Professor of Political Science and Urban Affairs at Northwestern University and Director of the Environmental Policy Program at the Center for Urban Affairs and Policy Research in Evanston. Previously he has been Policy Studies Director at the Institute of Ecology in Indianapolis (1980-81); Visiting Associate Professor, School of Natural Resources, University of Michigan (1977); and Urban Affairs Specialist, Institute of Public Affairs, University of Iowa. His B.A. is from Michigan State University, J.D. from Detroit College of Law, M.A. from Wayne State University, and Ph.D. from the University of Iowa. He has served as Principal Investigator of a study on the "Long Range Consequences of Natural Disasters," and as Co-principal Investigator of a study on the "Socio-political Consequences of Alternative Energy Development Strategies."

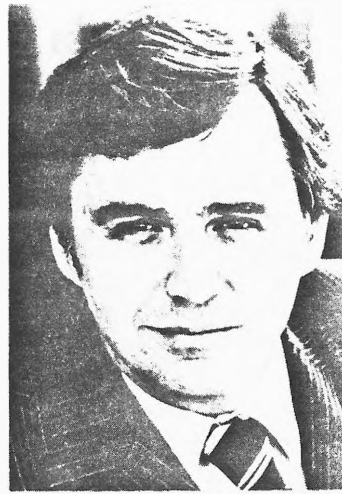
DAVID H. GETCHES (A.B. '64, Occidental College; J.D. '67, University of Southern California Law School) was appointed Director of the Colorado Dept. of Natural Resources in August 1983. He is on leave as an Associate Professor of Law at the University of Colorado School of Law. Previously he had a law practice in Boulder, Getches & Greene, and was Directing Attorney for the Native American Rights Fund. He has taught at the University of Denver School of Law, the University of Alaska Center for Northern Education Research, and the University of California at San Diego. His publications include Cases and Materials on Federal Indian Law (with Rosenfelt and Wilkinson); Water Law in a Nutshell for West Publishing; and "Water Rights on Indian Allotments." He is on the Editorial Board of Cohen's Handbook of Federal Indian Law.



THOMAS GLASS is a Colorado State Senator representing Senate District 13, which includes western Boulder, northwest Jefferson, and all of Summit, Eagle, Pitkin, Gilpin and Clear Creek Counties, which is mostly federal land. His B.A. is from Western Connecticut College (1968) and he did postgraduate work in business administration at Harvard (1980). He has been a businessman in Crested Butte since 1971, a director of the Crested Butte State Bank until 1982, and Executive Director of the Northwest Colorado Council of Governments (1978-82), during which time he developed model cooperative services agreements between

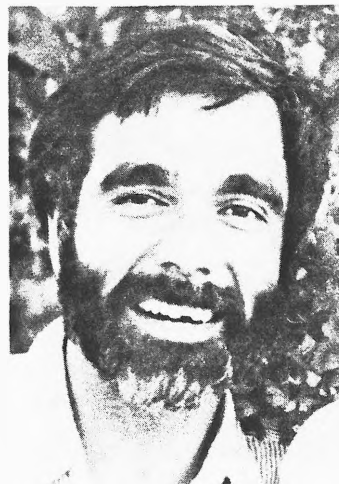
counties and federal land managers. He was named Outstanding Freshman Senator by the Colorado Social Legislation Committee in 1983.

RAYMOND P. KOGOVSEK, Colorado Democrat from Pueblo, was elected to the U.S. House of Representatives in 1978. His B.S. is from Adams State College (1964) with graduate work at University of Denver (1965). He was elected to the Colorado General Assembly in 1968, to the State Senate in 1970. He has been Whip-at-Large in the U.S. House since 1981, and is a member of the House Education and Labor Committee; the Interior and Insular Affairs Committee, Subcommittees on Water and Power Resources, Public Lands and National Parks, Mining, Forestry Management and Bonneyville Power Authority.



REBECCA LOVE KOURLIS is associated with Gibson, Dunn & Crutcher in Denver, and additionally has a private sole practice specializing in natural resources in Craig, Colorado. She graduated with distinction from Stanford University in 1973, and from the Stanford School of Law in 1976. Her memberships include the Rocky Mountain Mineral Law Foundation and the Colorado, Denver, and Northwest Colorado Bar Associations. She has lectured at the Institute of Energy Development's Seminar on Federal Oil and Gas Leasing and at RMMLF's special institutes on Federal Oil and Gas Leasing and Access.

JOHN D. LESHY, Professor of Law at Arizona State University, teaches water law, natural resources, constitutional and Indian law, as well as directing a funded project on irrigation districts. He has an A.B. and J.D. from Harvard, and has been an attorney for the Justice Department, 1969-72; Regional Counsel for the Natural Resources Defense Council, Western Office, 1972-77 (responsible for, among other things, environmental advocacy for water projects and policies at state and federal levels); Associate Solicitor for Energy and Resources, Department of Interior, 1977-80 (dealing with federal water policies and programs of Reclamation and the Bureau of Land Management).







WILLIAM R. MARSH is a partner resident in the Denver office of Sherman & Howard, a law firm with additional offices in Colorado Springs and Reno. He joined Sherman & Howard in 1974, after three and one-half years with the U.S. Geological Survey. His ten years of private practice, concentrated in the area of mining law, include a year (1979-80) as the legal consultant to the Subcommittee on Mines and Mining of the U.S. House of Representatives. He taught mining law at the University of Denver College of Law from 1979 through 1982, and he is currently teaching at the Colorado School of Mines (mineral operating transactions)

and the University of Denver (environmental regulation of the energy industries). He has been a speaker at various professional programs and published several articles on natural resource law related topics. At the 30th Annual Institute of the Rocky Mountain Mineral Law Foundation to be held in July 1984, he will present a paper entitled, "Staking Mining Claims on Revoked Public Land Withdrawals: Issues and Alternative Strategies."

CLYDE O. MARTZ is a partner at Davis, Graham & Stubbs in Denver. His A.B. is from the University of Nebraska (1941) and LL.B. from Harvard (1947). He has served as Solicitor for the Department of Interior (1980-81), as Assistant Attorney General of the U.S. (1967-69), and as Judicial Administrator for the State of Colorado (1959-60). He was on the faculty of the University of Colorado School of Law (1947-62), serving as Assistant Dean (1954-59) and Acting Dean (1957-58). He has been an Adjunct Professor of Law at the University of Denver (1962-80). Mr. Martz is Chairman of the Natural Resources Law Center's Advisory Board, and has spearheaded the successful Development Campaign Committee's fundraising for the Center.



H. ROBERT MOORE, Acting State Director of the BLM in Denver, has 25 years of natural resource management expertise. He joined the BLM at Coos Bay, Oregon, in 1955 as a Forester immediately after receiving his degree in Forest Engineering from the University of Montana. After two years in the Army, he returned to BLM and was selected as District Engineer and later Chief of the Division of Operations at Prineville, Oregon, in 1962. He served in the Bureau's Washington, D.C. office as Natural Resource Specialist from 1968-72, when he was transferred to Colorado as Chief, Division of Planning and Environmental Coordination. Returning to D.C. in 1978 to BLM's Office of Coal Management, he brought about the first leases of federal coal under a new leasing system aimed at orderly development of the nation's most abundant energy mineral.



JON K. MULFORD is currently a Fellow of the Natural Resources Law Center researching BLM land tenure planning under FLPMA. His B.A. is from Hamilton College (1960), M.A. from Vanderbilt University (1962), and J.D. from the University of Colorado (1966). He has a private law practice in Aspen and Denver. Previously he was associated with Sherman and Howard in Denver (1966-68) and had a private practice in Granby, Colorado (1968-74). He has served as County Attorney in Grand County, as Chairman of the Aspen/Pitkin County Open Space Advisory Board, and has been an instructor in Real Estate Practice at the

University of Denver College of Law.



RICHARD L. STROUP, Director of the Office of Policy Analysis, Department of Interior, is on leave as professor of agricultural economics and economics, and co-director of the Center for Political Economy and Natural Resources at Montana State University. He received his B.A., M.S., and Ph.D. from the University of Washington. He is the author of Economics: Private and Public Choice (with J. Gwartney, 1983); Natural Resources: Bureaucratic Myths and Environmental Management (with J. Baden); and has edited Bureaucracy vs. Environment (with J. Baden, 1981). He has contributed to numerous scholarly journals.

CHARLES F. WILKINSON is Professor at the University of Oregon School of Law. His B.A. is from Denison University and LL.B. from Stanford University. He was formerly a staff attorney for the Native American Rights Fund in Boulder, and is author of Cases and Materials on Federal Indian Law (with Getches and Rosenfelt), Federal Public Land and Resources Law (with Coggins), and "the Field of Public Land Law: Some Connecting Threads and Future Directions."

